

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2924/P1dn  
ARG:kjf:ph

October 10, 2011

ATTN: Marcie Malszycki

Please review the attached draft carefully to ensure that it is consistent with your intent.

In the attached draft, I have tried to incorporate the suggested language into created s. 420.04 (1), (3), and (5), for the most part, but I find these provisions, when read together, very confusing and perhaps even inconsistent. If rental property is repossessed, how could it also be voluntarily returned or surrendered? That is, I don't see how reinstatement rights could arise under s. 420.04 (1) if there is a repossession.

This bill requires DFI to enforce the provisions of chapter 420, but it is unclear to me what enforcement authority DFI would actually have. There is no express authority in the bill (or elsewhere in the statutes, as far as I can tell) for DFI to inspect the records or premises of a rental-purchase company, investigate suspected violations, impose administrative penalties for violations, or refer violations for prosecution. In addition, there is no requirement for rental-purchase companies to maintain records or make reports to DFI.

What happens if a rental-purchase company fails to pay the annual fee to DFI? Since rental-purchase companies are not actually licensed, DFI cannot suspend or revoke the company's license. Moreover, DFI seems to lack any other enforcement authority under this draft, so it does not appear that there would be any ramification under this bill for a rental-purchase company that chooses not to pay its annual fee as required. The same is true for DFI enforcement of its own rules. The bill allows a lessee to seek damages, but does not seem to give DFI any authority of its own to enforce violations of its rules.

The annual fee for rental-purchase companies will be deposited by DFI in its appropriation under s. 20.144 (1) (g). I assume that the full amount of the fees deposited (not just 88 percent) will be available to DFI for general program operations.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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